

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080606

ORDER DENYING JOINT SECOND
REQUEST FOR CONTINUANCE

This matter was filed on August 13, 2015 and initially set for a hearing date of October 7, 2015. On September 15, 2015, the parties sought and were granted a joint first continuance to the currently scheduled hearing dates of November 3-5, 2015. On October 9, 2015, the parties filed a joint second request to continue the dates in this matter. This second request seeks a continuance in excess of three months, to proposed hearing dates of February 8-12, 2016. The parties' reasons are, first that Student's expert witness is unavailable on the November 3-5 dates and is available on unspecified dates in mid-December; and second, that "witnesses for the District are not available for the months of December and January." The parties do not specify the exact days of availability/unavailability of Student's expert; nor do they mention which District personnel are unavailable, nor the reasons for the unavailability, nor the justification for unavailability during the entirety of the two months period spanning from December through January. Moreover none of the stated reasons are supported by declarations. Therefore the request does not establish good cause and is denied.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared.

IT IS SO ORDERED.

DATE: October 12, 2015

/s/

JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings